

**Douglas R. Crane**  
**3055 S. Clayton St.**  
**Denver, CO 80210**  
[dcrane@rmi.net](mailto:dcrane@rmi.net)

December 1, 2002

To the Honorable Commissioners of the FCC:

I am writing to you to comment on Docket No. 02-277, The Biennial Review of the FCC's broadcast media ownership rules.

I would ask that you reconsider any change in rules that would further relax ownership limits of media operators. It has only been six years since the passage of the Telecommunications Act of 1996. The effects of this legislation are still continuing, perhaps with some unintended consequences. Isn't it enough that over 40 independent radio station owner groups have been reduced to only two? Through acquisitions and mergers, this is what Infinity Radio and Clear Channel have managed to accomplish.

More importantly, in the aftermath of the TeleComm Act, I feel that Clear Channel Communications (CC) has not been a good steward of the public's airwaves.

CC has not provided breaking news events concerning fires and weather warnings in a timely fashion. Their 50kw outlet (KOA) in Denver, CO was very slow in providing information as ash and smoke were blanketing the Denver area a few months ago due to a very large forest fire in the foothills southwest of Denver. More recently, one CC's stations in Sandusky, OH (WLEC) failed to provide timely updates on the band of tornadoes that tore through northwest Ohio. An account of the latter appears in the 11/14/2002 Toledo Blade. Here's what a resident of Kelleys Island told the Toledo Blade: "We had seen warnings on TV before our power was knocked out. Imagine my surprise, as we sat in the dark with the wind wailing outside and the battery-operated radio on, when it was business as usual with WLEC. Obviously, no human was around, as the station continued to predict 'possible thunderstorms' with no mention of severe weather. The oldie tunes played on, oblivious to the havoc around us."

The above clearly shows the effects of automation, voice-tracking and the decimation of radio news staffs. The only department that has increased in size at CC is the sales department. At this time in our nation's history with the specter of possible terrorist attacks ever looming, one has to wonder if CC would have the capability let alone the interest in providing Americans with information they needed to know.

CC owns eight radio properties in Denver, the legal limit as it currently exists. At the time of the CC/AM-FM merger, CC attempted to sell one of the stations needed to keep it at its eight station cap to Hispanic Broadcasting, a corporation that CC holds a 25% stake. Fortunately the FCC red-flagged its sale. San Diego, CA presents a classic example of just how CC operates. By owning eight US stations and a couple located across the Mexican border that are heard very clearly in San Diego, CC's market penetration far exceeds what the FCC intended or should, for that matter, currently allow. CC may operate within the legal definition of FCC rules and regulations but they will push them as far as they can.

Then there's the matter of independent record promotion money or what many call the "New Payola". There has been much discussion of "Pay for Play" practices with CC stating that their playlists are not affected whether or not they receive money from an independent promoter. Whatever the truth may be regarding independent promotion money, CC's Mark Mays stated in an interview in the 7/15/2002 Los Angeles Times that "We've encouraged the record companies not to make these payments. I told them, 'Please, don't make the payments.' Why they continue to make the payments, I have no idea. But you know what? If we don't take that money the way that we're taking it, it scares me to death what they're going to pay and how they're going to try to influence people. We want the record companies to stop trying to influence and make payments to independent promoters. We're going to take the money as long as they're willing to pay it."

Mays' statements did not preclude CC from signing contracts with three independent promoters in late August/early September of this year. As the Los Angeles Times reports, "Clear Channel has notified record labels that it has

signed new pacts with a trio of independent music promoters and granted them the exclusive right to pitch songs to Clear Channel program directors at its top black music, or "urban," radio stations. Those promoters, in turn, have dramatically raised the prices they charge record labels for new songs added to a station's weekly playlist." Isn't there something just a bit contradictory here?

I'd also like to take issue with the conclusions of a study concerning radio advertising rates authored by Massachusetts Institute of Technology Professor of Economics Jerry Hausman. His findings appear elsewhere in your Docket No. 02-277 files. In it, he states that little, if any, change in ad rates has occurred due to the 1996 TeleComm Act. I'm not going to debate that point. But what has changed? CC's Denver stations routinely carry up to 18 minutes per hour of commercials, something that did not happen prior to the TeleComm Act. CC maintains this spot load even in late night/early morning hours when most of the potential audience is asleep. Radio and Records ([www.ronline.com](http://www.ronline.com)) and All Access Media ([www.allaccess.com](http://www.allaccess.com)) post playlists that will confirm my assertions.

Coupled with the spot load is the matter of CC selling spots on multiple stations within a given market. I have personally heard reports from sales staff at other radio stations that CC sells packages that combine spots at a station with good ratings with an under-performing one. I'd be tempted to say that CC averages the cost of advertising on one with the other but I can't definitively say that. What can be said is that CC may extract enough money from a potential advertiser that it is unable to afford the cost of advertising on a non-CC station.

In Denver, CC has been accused of burying spots in off-peak hours for a local concert promoter, Nobody in Particular Presents (NIPP). NIPP's court case is still pending as this is being written. They accuse CC of running their spots at times of day when most people are asleep. CC disputes this claim. It is worth noting that CC also owns concert promoter Clear Channel Entertainment, formerly known as SFX. Concert ticket prices have risen dramatically in Denver since CC purchased SFX but that's out of your purview. Still, the preceding illustrates CC's predatory and arrogant attitude.

I am also deeply concerned that Andrew Levin has been named as CC's Vice-President, Government Relations within the past few weeks. I am not trying to defame Mr. Levin's character although I find his taking a position with CC as chief lobbyist after seven years of service to the House Committee on Energy and Commerce somewhat worrisome, even perplexing. Given his background in TeleComm and law, he will certainly be able to advocate for CC in exemplary fashion.

In my view, the 1996 TeleComm Act has been a disaster for the American radio listener in regards to localism, diversity and competition. Too few station owners hold far too much power and influence. Niche radio formats that were (and still could be) profitable were quickly jettisoned, news staffs barely exist and competition has been replaced with what some might construe as monopolies. The only question you need to ask yourselves about further relaxation and liberalization of ownership limits is: "Whose interests are being served?"

I appreciate the opportunity to share my opinions with the commission and hope that you find them germane to your task at hand.

Sincerely,

Douglas R. Crane